IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5955 OF 2007

The Municipal Corporation of Greater Mumbai & ors ..Petitioners

V/s.

Sanjay Laxman Bhosale ..Respondent

Mr.A.Y.Sakhare i/b. Mrs.Nisha Dabhade, advocate, for the petitioners
Mr.Kishore Shetty, advocate, for respondent

CORAM : SMT.NISHITA MHATRE, J.

DATE : 18TH SEPTEMBER, 2007

P.C.

1. The petition has been filed against the concurrent findings of facts recorded by the Labour Court and the Industrial Court. Both the Courts below have held that the misconduct alleged against the respondent was not proved by petitioner No.1 Corporation. An enquiry held against the respondent was found to be defective and therefore, the Corporation was permitted to lead evidence before the Court to prove the charge. The Labour Court has considered the evidence on record and concluded that the charges levelled against the

respondent had not been proved. The Industrial Court in Revision Application has observed that the counsel for the Corporation had conceded that the charge that the respondent had prevented the fire engine from moving out of the Mandvi Fire Station had not been proved. Both the Courts below had found that the charges levelled against the respondent workman were not proved by the petitioners.

2. As regards the backwages, the respondent has stated in his affidavit in lieu of examination-in-chief that he made attempts to secure jobs during this period of unemployment but was unable to secure any gainful employment. In his cross examination he has stated that he attempted to get employment with the M.I.D.C. in Mumbai, Pune and Chiplun and work as a watchman. He has admitted that no written application was made by him for securing employment. There is no contrary evidence on record led by the petitioner No.1 corporation. In such circumstances, in my view, the orders of the Courts below need not be interfered with under

the writ jurisdiction of this Court. In any event, the respondent has been superannuated. Petition rejected.

(**SMT.NISHITA MHATRE, J.**)